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APPLICATION NO. FILING DATE		G DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO. 1286	
10/053,266 01/17/2002		7/2002	Ernst Heinz	VOS-29		
1473	7590	11/22/2005		EXAMINER		
FISH & NE		ROUP	HELMER, GEORGIA L			
ROPES & GI		AMERICAS FL	ART UNIT	PAPER NUMBER		
NEW YORK	, NY 1002	0-1105	1638			

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/053,266	HEINZ ET AL.		
Examiner	Art Unit		
Georgia L. Helmer	1638		

	Georgia L. Helmer	1638	
The MAILING DATE of this communication appe	ars on the cover sheet with th	e correspondence add	iress
THE REPLY FILED <u>26 June 2005</u> FAILS TO PLACE THIS APP	LICATION IN CONDITION FOR	ALLOWANCE.	
1. i j The reply was filed after a final rejection, but prior to or on this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a No a Request for Continued Examination (RCE) in compliance time periods:	ving replies: (1) an amendment, tice of Appeal (with appeal fee)	affidavit, or other evide in compliance with 37 C	nce, which FR 41.31; or (3)
a) The period for reply expiresmonths from the mailing date b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire le Examiner Note: If box 1 is checked, check either box (a) or (TWO MONTHS OF THE FINAL REJECTION. See MPEP 70	dvisory Action, or (2) the date set for ater than SIX MONTHS from the ma b). ONLY CHECK BOX (b) WHEN 06.07(f).	illing date of the final reject THE FIRST REPLY WAS I	ion. FILED WITHIN
Extensions of time may be obtained under 37 CFR 1.136(a). The date have been filed is the date for purposes of determining the period of extunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL	ension and the corresponding amo hortened statutory period for reply than three months after the mailing	unt of the fee. The approportion	riate extension fee fice action; or (2) as
 The Notice of Appeal was filed on <u>26 June 2005</u>. A brief if date of filing the Notice of Appeal (37 CFR 41.37(a)), or a appeal. Since a Notice of Appeal has been filed, any reply AMENDMENTS 	ny extension thereof (37 CFR 4	1.37(e)), to avoid dismis	sal of the
3. The proposed amendment(s) filed after a final rejection, I (a) They raise new issues that would require further co	nsideration and/or search (see		ecause
 (b) They raise the issue of new matter (see NOTE belo (c) They are not deemed to place the application in bet appeal; and/or 	• •	reducing or simplifying	the issues for
(d) ☐ They present additional claims without canceling a NOTE: (See 37 CFR 1.1	-	rejected claims.	
4. 🔲 The amendments are not in compliance with 37 CFR 1.12		Compliant Amendment	(PTOL-324).
 Applicant's reply has overcome the following rejection(s) Newly proposed or amended claim(s) would be al non-allowable claim(s). 		te, timely filed amendm	ent canceling the
7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is provided the status of the claim(s) is (or will be) as follows: Claim(s) allowed:	\square will not be entered, or b) \boxtimes vided below or appended.	will be entered and an	explanation of
Claim(s) objected to: Claim(s) rejected: <u>1 and 4-23</u> . Claim(s) withdrawn from consideration:		Sheet	attoche
AFFIDAVIT OR OTHER EVIDENCE 8. ☐ The affidavit or other evidence filed after a final action, bu because applicant failed to provide a showing of good and was not earlier presented. See 37 CFR 1.116(e).			
9. The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to o showing a good and sufficient reasons why it is necessary. 10. The affidavit are above evidence in outcode. An evelopation of the content of the con	vercome <u>all</u> rejections under and and was not earlier presented	peal and/or appellant fa See 37 CFR 41.33(d)	ils to provide a (1).
10. ☐ The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER 11. ☒ The request for reconsideration has been considered but		-	
see continuation shee			mee because.
12. ☐ Note the attached Information Disclosure Statement(s).13. ☐ Other:	⊬т∪/5в/08 ог РТО-1449) Раро	er NO(S)	

Continuation of NOTE: All the references cited by Applicant in the AF support the Examiner's position that the use of Agrobacterium tumefaciens transformation of flax hypocotyls were both required for high efficiency transformation and normal morphology. Bombardment is not taught in the instant specification, which must be enabling (prior art is not enabling).

DAVID T. FOX PRIMARY EXAMINER
GROUP 180 16 3A

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